

County of Monroe
Growth Management Division

Department of Environmental Resources

Suite #420
2798 Overseas Highway
Dist. 3
Marathon FL 33050
Voice: (305) 289-2500
FAX: (305) 289-2536



Board of County Commissioners

Mayor Mario DiGennaro, Dist. 4
Mayor Pro Tem Charles "Sonny" McCoy,

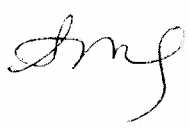
George Neugent, Dist. 2
Dixie Spehar, Dist. 1
Sylvia J. Murphy, Dist. 5

We strive to be caring, professional and fair

MEMORANDUM

To: Planning Commission

Through: Townsley Schwab, Planning Director

From: Susan Grimsley, Assistant County Attorney 

Date: July 11, 2008

Re: Amendment to Land Development Regulations Secs. 9.5-68 and 9.5-69

For: Meeting of July 23, 2008

Proposal: To amend Sections 9.5-68 and 9.5-69 concerning Conditional Uses to reflect actual practice and eliminate obsolete provisions.

Process: The BOCC may consider changes to the text recognizing one of the six factors in Sec. 9.5-511(5)b. The DRC should review the proposal. The Planning Commission must hold one public hearing, and then the BOCC must hold a public hearing.

Analysis: The proposed ordinance amendment meets the following criteria:

Sec. 9.5-511(5)b.(iv) New issues

1. The development review committee actually comments to responsible staff and the Planning Director and does not make a formal recommendation to the Planning Commission. Wording has been changed in both sections 9.5-68 and 9.5-69 to reflect that process. In the future, the DRC section will be revised to clarify this procedure.

2. Section 9.5-68 has been changed to state that the consideration of a review of a decision by the Planning Director is an appeal from his administrative action.

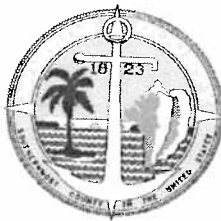
3. Section 9.5-69 eliminates the requirement to give notice after-the-fact on a conditional use. This provision has not been used within recent memory.

Recommendation: Staff recommends approval.

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Recommendation: Staff recommends approval.

ORDINANCE NO. _____ - 2008

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SECTIONS 9.5-68 AND 9.5-69 OF THE MONROE COUNTY CODE CONCERNING CONDITIONAL USES; AMENDING PROCEDURES AND DELETING OBSOLETE PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMISSION TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, since enactment of the Land Development Regulations in the 1980s the actual processing of Conditional Uses by the Growth Management Division has changed to reflect the needs of applicants and the structure of the Planning Department; and

WHEREAS, the process should be accurately reflected in the regulations and land development code for the benefit of the public;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY:

Section 1. Section 9.5-68 is amended as follows:

Sec. 9.5-68. Minor conditional uses.

(a) *Applications for a Minor Conditional Use Permit:* An application for a minor conditional use permit shall be submitted to the Planning Department ~~development review coordinator~~ in the form provided by the director of planning. If approval of a plat is required for the proposed development, an application for plat approval shall be submitted in conjunction with the application for a conditional use permit. If an application for a minor conditional use includes a major conditional use, then the minor conditional use shall be considered in conjunction with the major conditional use in accordance with the procedures of section 9.5-69.

(b) *Review by the Development Review Committee:* An application for a minor conditional use permit shall be reviewed by the development review committee. The development review committee members shall make comment ~~forward its report and recommendation~~ on the application for a minor conditional use permit and the responsible staff shall forward such comments to the director of planning. ~~within ten (10) working days of its determination of completeness.~~

(c) *Decision by the Director of Planning:* Within ten (10) working days after receiving the comments of the committee from staff ~~report and recommendation of the development review committee~~, the director of planning shall render a development order granting, granting with conditions or denying the application for a minor conditional use permit.

(d) *Notice of Grant of a Minor Conditional Use Permit:* The director of planning shall give notice of any development order granting a minor conditional use by sending a written notice to all owners of real property located within three hundred (300) feet of the property that is subject to the minor conditional use permit, and notice of the intent to issue the minor conditional approval shall be published in the newspapers of local circulation in the county by advertisement in the legal section. The costs of publication and written notice are to be borne by the applicant. Notice by the planning director shall be by regular mail on the day of the granting of the minor conditional use.

(e) *Consideration of a Minor Conditional Use Approval by the Planning Commission:* An appeal ~~Consideration~~ of a minor conditional use approval shall be governed by the provisions of article XII.

(f) *Public Hearing on an Application for a Minor Conditional Use Permit:* The public hearing on an application for minor conditional use, if requested by the applicant, an adjacent property owner, or an aggrieved or adversely affected person, as defined by section 163.3215(2), Florida Statutes (1985), or any resident or real property owner, shall be conducted by the planning commission in accordance with the provisions of section 9.5-521(e).

Section 2. Section 9.5-69 shall be amended as follows:

Sec. 9.5-69. Major conditional uses.

(a) *Applications for Major Conditional Uses:* An application for a major conditional use permit shall be submitted to the Planning Department ~~development review coordinator~~ in a form provided by the director of planning.

(1) If approval of a plat is required for the proposed development, an application for plat approval shall be submitted in conjunction with the application for a conditional use permit. However, a major conditional use shall not become effective until the plat has been approved by the board of county commissioners.

(2) As a part of the application for major conditional use, an applicant shall be required to submit the following, except for those inappropriate to the proposed development due to the limited size or scale of the development as determined by the planning director:

a. An environmental designation survey consisting of:

(i) A plan drawn to a scale of one (1) inch equals twenty (20) feet or less, except where impractical and the planning director authorizes a smaller scale, and showing the following:

1. Location of property;
2. Date, approximate north point and graphic scale;
3. Acreage within the property;
4. Boundary lines of the property and their bearings and distances;
5. Topography and typical ground cover;
6. General surface characteristics, water areas and drainage patterns;
7. Contours at an interval of not greater than one (1) foot or at lesser intervals if deemed necessary for review purposes;
8. 100-year flood-prone areas by flood zone;
9. Presently developed and/or already altered areas; and
10. Location of mean high-water line.

(ii) A natural vegetation map and/or a map of unique environmental features such as:

1. Climax tropical hardwood hammocks;
2. Endangered species habitats;
3. Major wildlife intensive use areas.
- (iii) Aerial photographs of the property and surrounding area.
- (iv) A review of historical and archeological sites by the Florida Division of Archives, History and Records Management.
- (v) A review of unique environmental features such as:
 1. Climax tropical hardwood hammocks;
 2. Endangered species habitats;
 3. Major wildlife intensive use areas.
- (vi) Actual acreage of specific vegetation species or other environmental characteristics.
- (vii) General information relating to the property in regard to the potential impact which development of the site could have on the area's natural environment and ecology.
- (viii) Environmental resources:
 1. If shoreline zones were identified, describe in detail any proposed site alterations in the areas, including vegetation removal, dredging, canals or channels; identify measures which have been taken to protect the natural, biological functions of vegetation within this area such as shoreline stabilization, wildlife and marine habitat, marine productivity and water quality maintenance.
 2. If tropical hammock communities or other protected vegetative communities were identified, describe proposed site alteration in those areas and indicate measures which were taken to protect intact areas prior to, during and after construction.
 3. Describe plans for vegetation and landscaping of cleared sites including a completion schedule for such work.
- (ix) Environmental resources-wildlife. Describe the wildlife species which nest, feed or reside on or adjacent to the proposed site. Specifically identify those species considered to be threatened or endangered. Indicate measures which will be taken to protect wildlife and their habitats.
- (x) Environmental resources-water quality:
 1. Identify any waste water disposal areas, including stormwater runoff, septic tank drain-fields, impervious surfaces and construction-related runoff; describe anticipated volume and characteristics. Indicate measures taken to minimize the adverse impacts of these potential pollution sources upon the quality of the receiving waters prior to, during, and after construction; identify the nearshore water quality; and identify how this development will not adversely impact the nearshore water quality.
 2. Indicate the degree to which any natural drainage patterns have been incorporated into the drainage system of the project.
- b. A community impact statement, including:
 - (i) General description of proposed development:
 1. Provide a general written description of the proposed development; include in this description the proposed phases of development or operation and facility utilization, target dates for each of these, and date of completion; in addition, indicate the site size, developing staging and appropriate descriptive measures such as quantity and type of residential units, commercial floor area, tourist accommodation units, seating and parking capacities; for residential development, indicate the anticipated unit-per-acre density of the completed project;
 2. Identify aspects of the project design, such as a clustering, which were incorporated to reduce public facilities costs and improve the scenic quality of the development; describe building and

siting specifications which were utilized to reduce hurricane and fire damage potential to comply with federal flood insurance regulations and the comprehensive land use plan.

(ii) Impact assessment on public facilities and water supply:

1. Identify projected daily potable water demands at the end of each development phase and specify any consumption rates which have been assumed for the projection;
2. Provide proof of coordination with the Florida Keys Aqueduct Authority; assess the present and projected capacity of the water supply system and the ability of such system to provide adequate water for the proposed development;
3. Describe measures to ensure that water pressure and flow will be adequate for fire protection for the type of construction proposed.

(iii) Public facilities-wastewater management:

1. Provide proof of coordination with the Florida Department of Health and Rehabilitative Services;
2. Provide projection of the average flows of wastewater generated by the development at the end of each development phase; describe proposed treatment system, method and degree of treatment, quality of effluent, and location of effluent and sludge disposal areas; identify method and responsibilities for operation and maintenance of facilities;
3. If public facilities are to be utilized, provide proof of coordination with the Monroe County Waste Collection and Disposal District; assess the present and projected capacity of the treatment and transmission facilities and the ability of such facilities to provide adequate service to the proposed development;
4. If applicable, provide a description of the volume and characteristics of any industrial or other effluents.

(iv) Public facilities-solid waste:

1. Identify projected average daily volumes of solid waste generated by the development at the end of each phase; indicate proposed methods of treatment and disposal;
2. Provide proof of coordination with Monroe County Municipal Services District; assess the present and projected capacity of the solid waste treatment and disposal system and the ability of such facilities to provide adequate services to the proposed development;
3. Comply with the requirements of section 9.5-426 of this chapter concerning any applicable traffic study.

(v) Public facilities-transportation:

1. Provide a projection of the expected vehicle trip generation at the completion of each development phase; describe in terms of external trip generation and average daily and peak hour traffic;
2. If the project site is adjacent to U.S. 1, describe the measures, such as setbacks and access limitations, which have been incorporated into the project design to reduce impacts upon U.S. 1.

(vi) Housing:

1. If the project includes residential development, provide breakdown of the proposed residential units by price range or rental range and type of unit such as single-family, duplex, townhouse, etc.;
2. If lots are to be sold without constructed dwelling units, indicate the number and percentage of such lots and the extent of improvements to be made prior to sale;
3. Assess the potential of the proposed development to meet local or regional housing needs; in particular, indicate any measures taken to provide low-and moderate-income housing.

(vii) Special considerations:

1. Describe the relationship of the proposed development to the comprehensive land use plan objectives and policies; also indicate relationships [between] existing or proposed public facilities plans; identify any conflicts;
2. Indicate any relationships of the project to special land use and development district such as airport noise and hazard zones, solid or liquid waste treatment or disposal areas;
3. If applicable, assess the impact of the proposed development upon other adjacent or nearby municipalities or counties.

(viii) The data and information provided in a community impact statement shall be coordinated with data and other information and/or permits required by local, regional, state or federal regulatory or reviewing agencies as appropriate to the major conditional use proposed.

(b) *Review by the Development Review Committee:* An application for a major conditional use permit shall be reviewed by the development review committee. The development review committee shall give comments to the planning director. Within fifteen (15) working days after the submission of a complete application for a major conditional use permit, the development review committee shall forward a report and recommendation on the application for a major conditional use permit to the planning commission.

(c) *Public Hearing on an Application for a Major Conditional Use Permit:* The planning commission shall hold a public hearing on the application for a major conditional use permit and shall ~~within forty-five (45) working days of~~ as soon as practicable after the submission of a complete application for a major conditional use permit ~~to the development review coordinator~~ issue a development order granting, granting with conditions or denying the application for a major conditional use permit. Notice of the public hearing shall be given pursuant to Section 9.5-45.

~~(d) *Notice of Grant of a Major Conditional Use Permit:* The director of planning shall give notice of any development order granting a major conditional use by sending a written notice to all owners of real property located within three hundred (300) feet of the property that is the subject of the major conditional use permit, and notice of the intent to issue the major conditional approval shall be published in newspapers of local circulation in the county by advertisement other than in the legal notice section with the cost to be borne by the applicant. Notice by the planning director shall be by regular mail within fifteen (15) days of the granting of the major conditional use.~~

~~(e)~~ (d) *Appeal of a Conditional Use Approved by the Planning Commission:* The applicant, an adjacent property owner, or any aggrieved or adversely affected person, as defined by Florida Statutes section 163.3215(2), or any person who presented testimony or evidence at the public hearing conducted pursuant to subsection (c), may request an appeal of the planning commission's major conditional use decision under the hearing officer appellate article of these regulations [§ 9.5-532 et seq.] by filing the notice required by that article within thirty (30) days after the publication of notice or sending of the written notice by the county, whichever is later.

Section 3. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 4. Conflicting Provisions.

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state, or County law, rule code or regulation, the more restrictive shall apply.

Section 5. Transmittal.

This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes and as required by F.S. 380.05(6) and (11).

Section 6. Filing.

This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 7. Effective Date.

This ordinance shall become effective as provided by law and stated above.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the _____ of _____ 2008.

Mayor Mario DiGennaro
Mayor Pro Tem Charles McCoy
Commissioner Sylvia Murphy
Commissioner George Neugent
Commissioner Dixie Spehar

(SEAL)
Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson